UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
--X
UNITED STATES OF AMERICA

v.

LIN WU, et. al.,
including YING CHEN.
--X

S1 12 Cr. 707 (LAK)

DECLARATION OF
COUNSEL IN SUPPORT
OF MOTION FOR A SEVERANCE

ECF FILING

Donald Yannella, an attorney duly admitted to practice law in the United States District Court, Southern District of New York, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that the following is true and correct to the best of his knowledge:

1. I am counsel for the defendant, Ying Chen. This declaration is based upon information and belief, the sources of which are a review of discovery, conversations with counsel, and conversations with my client.
2. A brief in furtherance of severance and other relief has already been filed by Eric Sears, counsel for defendant Ze Guang Zhu (ECF document # 168). In accordance with this Court's directive to file a single brief, I request permission to join in that motion. Mr. Zhu is charged in counts one through three of the indictment, and my client is charged only in count one.
3. The reasons for a severance argued in that memorandum are applicable to Ms. Chen. Ying Chen is charged in count one with conspiracy to commit alien smuggling, 8 USC § 371 and 8 USC §1324 (a)(2)(B)(ii) . Although the time frame of that conspiracy is in or about 2010 through September 2012, the discovery suggests that Ms. Chen's involvement was limited to a series of conversations that she had with two confidential informants between August and December of 2010. She had no involvement in the other overt acts,

such as exchanging money, exchanging travel documents, meeting with aliens, arranging transportation and hotel accommodations, or assisting in the smuggling. Her involvement ceased after those telephone calls occurred.

4. Although counts two and three of the indictment also relate to immigration fraud, Ms. Chen is not charged in those counts. Nor is she charged with narcotics or the other miscellaneous offenses in the indictment.

5. The United States Attorney's Office will make a specific proposal for severance after dispositions are reached for some defendants and the number of trial defendants is ascertained. One factor that should be considered is that I will be unavailable for trial from Wednesday, May 29, 2013, through Friday, May 31, 2013, as I have previously informed the Court and the US Attorney's Office.

6. Finally, I request permission to join in Eric Sears' other motions, including the request for a bill of particulars and a request for disclosure of uncharged crimes evidence that the Government intends to introduce pursuant to F.R.E. 404(b).

Dated: New York, New York
February 14, 2013

/s/
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CERTIFICATE OF SERVICE

I affirm that today I served a copy of the attached document upon the following individuals:

AUSA Matthew Schwartz
AUSA Paul Monteleoni and
AUSA Jennifer Burns
All co-counsel
Via email

Dated: February 14, 2013

/s/

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Donald Yannella, Esq.